IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CIVIL REVISION APPLICATION NO.509 OF 2007

Mrs. Shahida w/o. Abdul Qader Qureshi
& Ors. ..Petitioners
(Org.Defednants)

Versus

Mr. Dominic Francis Mascarenhas & Ors. ..Respondents
(Org. Plaintiffs)

Ms. Sharvin Shailendra,Advocate h/f Mr.P.S.Dani
Advocate, for the petitioners.
Mr. N.R.Bubna,Advocate, for the respondents.

CORAM: J.H.BHATIA,J.

DATE : 22nd November, 2007

P.C.

1. Heard learned Counsel for the petitioners who are the L.Rs of the original defendant.

2. Admittedly, the father of the plaintiffs was carrying on tailoring business and his son, plaintiff No.1, is also carrying on the same business. According to them, the father was carrying on tailoring business at Khansaheb Wadi where he was residing with his family. The accommodation in his occupation was hardly 150 sq.

ft. The original defendant was inducted as a licensee in the suit shop by the father of the plaintiffs in 1969 and later on, he became a deemed tenant. The father of the plaintiffs and original defendant were carrying on tailoring business. According to the plaintiffs, they needed the suit premises i.e. the suit shop bonafide for their own use because the space in their occupation at Khandsaheb Wadi was not sufficient for the business. The defendants contended that plaintiff Nos. 2, 3 and 4 were doing their different businesses at different places and the plaintiff No.1 is carrying on business of tailoring at Vashi. The trial Court accepted the plea of the plaintiffs that they reasonably and bonafide required the suit premises for their own business and the appeal preferred by the defendants came to be dismissed. Therefore, the defendants have filed the present Revision Application.

3. Learned Counsel for the petitioners/defendants has taken me through the judgments of both the Courts below. Both the Courts held that if the decree of eviction is passed, hardship will be caused to the defendants, but equally, hardship will be caused to the plaintiffs if the decree is refused. Both the Courts below came to the conclusion that the plaintiffs bonafide and reasonably require the suit premises for their own use. They found that if the decree is refused, the plaintiffs would be put to greater hardship.

4. The learned Counsel for the petitioners vehemently contended that no documentary evidence is

placed on record to establish that the plaintiffs or the plaintiff No.1 need the premises for carrying on their business. After going through the judgments of the Courts below, which deal with evidence at length, I find no substance in the contention of the learned Counsel for the petitioners. The evidence on record is sufficient to believe that the plaintiffs reasonably and bonafide require the suit premises for their own business and particularly for tailoring business of plaintiff No.1.

5. In the result, the Revision Application stands dismissed.

6. At this stage, the learned Counsel for the petitioners/defendants makes a statement that the defendants will vacate the suit premises within eight weeks from today and will also file a written undertaking to that effect within two weeks before this Court and subject to this undertaking the execution of the decree may be stayed for a period of eight weeks. In the interest of justice and subject to filing of a written undertaking before this Court within two weeks from this date by the defendants/petitioners, the decree shall not be executed for a period of eight weeks from this date. If they fail to file such a written undertaking, the decree may be executed immediately.

(J.H.BHATIA,J.)